

## **REMARKS**

### **I. Introduction**

Claims 1 to 34 are pending in the present application. In view of the following remarks, it is respectfully submitted that the present application is in condition for immediate allowance, and reconsideration is respectfully requested.

### **II. Allowed Subject Matter**

Applicants note with appreciation the indication that claims 5, 7, and 8 are allowed.

### **III. Provisional Double Patenting Rejection**

As regards the provisional double patenting rejection, while Applicants do not necessarily agree with the merits of this provisional rejection, Applicants are prepared to file a terminal disclaimer over U.S. Patent Application Serial No. 10/360,889 upon withdrawal of all other rejections and an indication that the present application is otherwise in condition for allowance.

### **IV. Rejection of Claims 1 to 4 and 25 to 34 Under 35 U.S.C. § 102(e)**

Claims 1 to 4 and 25 to 34 were rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 5,442,712 ("Kawamura"). It is respectfully submitted that Kawamura does not anticipate the present claims for at least the following reasons.

Claim 1 relates to a "method for operating a voice-supported system in a motor vehicle," including the feature of "determining a power of a signal as a function of frequency," and the feature of "adjusting the bandpass filter at least as a function of a **derivative** of the power of the signal with respect to frequency." Kawamura does not disclose or, even suggest, adjusting a bandpass filter at least as a function of a **derivative** of a power of a signal with respect to frequency. Nothing in Kawamura discloses or suggests a **derivative** of a power of a signal with respect to frequency. Indeed, Kawamura in no manner discusses or even references a **derivative** of a signal at all. Therefore, Kawamura cannot be considered to disclose or suggest adjusting a bandpass filter at least as a function of a **derivative** of a power of a signal with respect to frequency.

It is, of course, “well settled that the burden of establishing a prima facie case of anticipation resides with the [United States] Patent and Trademark Office.” Ex parte Skinner, 2 U.S.P.Q.2d 1788, 1788 to 1789 (Bd. Pat. App. & Inter. 1986). To anticipate a claim, each and every element as set forth in the claim must be found in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of Calif., 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the . . . claim.” Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). That is, the prior art must describe the elements arranged as required by the claims. In re Bond, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). Thus, a reference does not anticipate a claim if any aspect of the claim is not identically disclosed.

Therefore, it is respectfully submitted that Kawamura does not anticipate claim 1 or claims 2 and 9 to 25, which ultimately depend from claim 1.

Claim 3 relates to a “method for operating a voice-supported system in a motor vehicle,” including the feature of “determining the local maximum of the power of the signal as a function of the derivative of the power of the signal with respect to frequency.” As explained above, Kawamura does not disclose or even suggest a derivative of a power of a signal with respect to frequency. In addition, Kawamura does not disclose or suggest determining a local maximum of a power of a signal. Therefore, Kawamura also does not disclose or suggest determining a local maximum of the power of a signal as a function of a derivative of a power of a signal with respect to frequency.

Therefore, it is respectfully submitted that Kawamura does not anticipate claim 3.

Claim 4 relates to a “method for operating a voice-supported system in a motor vehicle,” including the feature of “determining the local maximum of the power of the signal as a function of a first derivative of the power of the signal with respect to frequency.” As explained above, Kawamura does not disclose or suggest determining a local maximum of a power of a signal as a function of a first derivative of a power of a signal with respect to frequency.

Therefore, it is respectfully submitted that Kawamura does not anticipate claim 4.

Claim 26 relates to a “device for operating a voice-enhancement system,” including the feature of “decision logic configured to adjust the bandpass filter at least as a function of a derivative of a power of the signal with respect to frequency.” As explained above, Kawamura does not disclose or suggest a derivative of a power of a signal with respect to frequency. Therefore, Kawamura also does not disclose or suggest a decision logic configured to adjust a bandpass filter at least as a function of a derivative of a power of a signal with respect to frequency.

Therefore, it is respectfully submitted that Kawamura does not anticipate claim 26, or claims 27, 28, and 32, which depend from claim 26.

Claim 29 relates to a “device for operating a voice-enhancement system,” including the feature of “an arrangement configured to adjust the bandpass filter at least as a function of a derivative of the power of the signal with respect to frequency.” As explained above, Kawamura does not disclose or suggest a derivative of a power of a signal with respect to frequency. Therefore, Kawamura cannot be considered to disclose or suggest an arrangement configured to adjust a bandpass filter at least as a function of a derivative of a power of a signal with respect to frequency.

Therefore, it is respectfully submitted that Kawamura does not anticipate claim 29, or claim 33, which depends from claim 29.

Claim 30 relates to a “device for operating a voice-enhancement system,” including “means for adjusting the bandpass filter at least as a function of a derivative of the power of the signal with respect to frequency.” As explained above, Kawamura does not disclose or suggest a derivative of a power of a signal with respect to frequency. Therefore, Kawamura cannot be considered to disclose or suggest means for adjusting a bandpass filter at least as a function of a derivative of a power of a signal with respect to frequency.

Therefore, it is respectfully submitted that Kawamura does not anticipate claim 30, or claim 34, which depends from claim 30.

In view of the foregoing, withdrawal of this rejection is respectfully requested.

**V. Rejection of Claims 9 and 10 Under 35 U.S.C. § 103(a)**

Claims 9 and 10 were rejected under 35 U.S.C. § 103(a) as unpatentable over Kawamura in view of U.S. Patent No. 6,125,187 ("Hanajima"). It is respectfully submitted that the combination of Kawamura and Hanajima does not render claim 9 and 10 unpatentable for at least the following reasons.

Claims 9 and 10 depend ultimately from claim 1. As explained above, Kawamura does not disclose or suggest all of the features of claim 1. Since Hanajima does not cure the critical deficiencies of Kawamura, the proposed combination does not disclose or suggest all of the features of claim 1, or of claims 9 and 10, which depend from claim 1. Therefore, it is respectfully submitted that the proposed combination of Kawamura and Hanajima does not render unpatentable claims 9 and 10.

In view of the foregoing, withdrawal of this rejection is respectfully requested.

**VI. Rejection of Claims 11 to 24 Under 35 U.S.C. § 103(a)**

Claims 11 to 24 were rejected under 35 U.S.C. § 103(a) as unpatentable over Kawamura and U.S. Patent No. 6,252,969 ("Ando"). It is respectfully submitted that the combination of Kawamura and Ando does not render claims 11 to 24 unpatentable for at least the following reasons.

Claims 11 to 24 depend from claim 1. As explained above Kawamura does not disclose or suggest all of the features of claim 1. Since Ando does not cure the critical deficiencies of Kawamura, the proposed combination does not disclose or suggest all of the features of claim 1, or of claims 11 to 24, which depend from claim 1. Therefore, it is respectfully submitted that the proposed combination of Kawamura and Ando does not render unpatentable claims 11 to 24.

In view of the foregoing, withdrawal of this rejection is respectfully requested.

**VII. Conclusion**

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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